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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,052	04/16/2004	William Ashley Gouthro	0503.ash	7227
32707	7590	01/30/2006	EXAMINER	
SVEN W. HANSON			LEWIN, ALLANA	
PO BOX 357429			ART UNIT	
GAINSVILLE, FL 32635-7429			PAPER NUMBER	

3764

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,052

Applicant(s)

GOUTHRO, WILLIAM ASHLEY

Examiner

Allana Lewin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) 5, 7, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Estwanik (US Pat. No. 6,013,044) in view of Klotz (US Pat. No. 5,358,471).
3. Estwanik substantially discloses the claimed invention comprising a conformable grip configured to accept a human hand formed in a first having medial and lateral sides (note Figures 5 and 6), a flat elongated flexible medial strap (see proximate lead line 18 and column 3, lines 10-16), a flat elongated flexible lateral strap (see proximate lead line 26 and column 3, lines 17-21), and a flexible clench strap within the grip extending between the medial and lateral sides (note Figure 6 and see proximate lead line 48). Furthermore, the medial and lateral straps are adjacent the user's arm and are positioned between the grip and the user's elbow. The Examiner notes that the applicant has not disclosed these straps extending *from* the grip *to* the elbow but merely between.

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4. Estwanik fails to disclose top and bottom cross straps distanced from the grip and extending between the medial and lateral straps, but only discloses a single cross strap (see proximate lead line 34).

5. Klotz discloses a wrist brace/stabilization device (note Figures 1-3) comprising a conformable grip configured to accept a human hand formed in a fist, a clench strap, medial and lateral straps, as well as a forearm strap (see proximate lead line 68) which comprehends Applicant's 'top cross strap' and a wrist strap (see proximate lead line 74) which comprehends Applicant's 'bottom cross strap'.

6. Based on the teaching of Klotz, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized top and bottom cross straps in the Estwanik device rather than a single cross strap as this modification would reduce the amount of material required in making the device, as well as provide greater adjustability to the device making it more configurable for various users.

7. Regarding claims 2 and 3, the Estwanik device comprises a wrist compression strap (see proximate lead line 34) which comprehends applicant's resistance device that comprises an elastic member as the wrist compression strap is generally flexible/elastic to allow for some movement of the hand and wrist, but inherently provides resistance so as to function as a stabilizer and to reduce relative movement of the hand and wrist during various activities (column 1, lines 49-67).

8. Regarding claim 4, the length of the top cross strap, between the medial and lateral straps, would be the width of the average forearm. The width of the average

forearm would be approximately 2.25 inches. The length of the top cross strap of both Estwanik and Klotz would therefore comprehend the claim language. However, to any extent that it is felt that the length of the top cross strap is not 2.25 inches, it would have been obvious for the top cross strap of Estwanik modified supra to have a length of 2.25 inches so as to accommodate most users.

9. Regarding claim 6, it is still unclear which distal point the Applicant refers to. As best understood by the examiner, the grip has a most distal point for receiving the knuckles of a user's fist (note Figure 4) and it would appear that a proximal portion of the top cross strap of Estwanik modified supra would be approximately 6.5 inches from the distal most portion of the device. However, to any extent that it is felt that the top cross strap is not distanced 6.5 inches from the most distal point of the device, it would have been obvious for the top cross strap to be distanced 6.5 inches from this most distal point so as to render the device appropriate for users with various hand sizes.

10. Regarding claim 8, Estwanik does not disclose what material the lateral and medial straps are formed from, however it appears as though these straps and the main body (see proximate lead line 12) are formed of the same material. Estwanik teaches that this main body may be formed of any suitable flexible material, including textile material (column 2, lines 63-67 to column 3, lines 1-2), and additionally it is known and common in the art to use woven fabric material. Therefore, it would appear that Estwanik would inherently anticipate this limitation. However, to any extent that it is felt that the medial and lateral straps are not made of woven fabric, it would have been obvious to use a conventional and well known material such as woven fabric in order to

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achieve the desired flexibility and to provide comfort for the user. Furthermore, Estwanik does not disclose the width of the medial and lateral straps, but it would be obvious for the straps to have a width of two inches so as to accommodate users with larger hands and wrists.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Givler et al. (US Pat. No. 6,945,945) in view of Estwanik (US Pat. No. 6,013,044).

12. Givler substantially discloses the claimed invention comprising a conformable grip configured to accept a human hand formed in a fist (note Figure 3), flat elongated flexible medial and lateral straps extending from the grip and having proximal ends (see proximate lead lines 20 and 20'), a hand piece (see proximate lead line 28) which comprehends Applicant's 'clench strap', a means of applying resistance force to the proximal ends of the straps via a harness (see proximate lead line 10) that includes adjustment straps and buckles (see proximate lead lines 16 and 18) which would allow for a resistance force at the proximal ends of the medial and lateral straps, and a means of applying a portion of the resistance force to the middle of the user's forearm (see proximate lead lines 22 and 26) as these two members would result in a resistance force applied in the middle of the forearm when the user is gripping and using the device.

13. Givler fails to teach the hand piece or clench strap as being flexible, but does disclose the hand piece as being contoured and accommodating for a user's hand.

14. Estwanik discloses a stabilization device comprising a conformable grip, medial and lateral straps, and a flexible clench strap (see proximate lead line 48) within the grip and extending between the straps.

15. Based on the teaching of Estwanik, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a flexible clench strap in the Givler device in order to make the hand piece/clench strap more contoured and therefore accommodating for the user's hand.

Allowable Subject Matter

16. Claims 5, 7, 9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

17. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571-272-5560. The examiner can normally be reached on Monday-Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AL 
1/25/2006


Danton D. DeMille
Primary Examiner